



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2507/1

MED:emw

2025 BILL

1 **AN ACT** *to amend* 20.865 (1) (a), 20.865 (1) (g), 20.865 (1) (q) and 227.40 (4) (a)
2 of the statutes; **relating to:** challenges to the validity of administrative rules
3 and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the validity of an administrative rule may be challenged in an action for declaratory judgment or in certain other judicial proceedings when material therein. This bill requires a court, if the court declares a rule invalid, to award the party asserting the invalidity of the rule reasonable attorney fees and costs.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 20.865 (1) (a) of the statutes is amended to read:
5 20.865 (1) (a) *Judgments and legal expenses.* A sum sufficient to pay for legal
6 expenses under s. 59.32 (3), for costs under ss. 227.40, 227.485, and 814.245 and for

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1 the costs of judgments, orders and settlements of actions, appeals and complaints
2 under subch. II of ch. 111 or subch. II or III of ch. 230, and those judgments, awards,
3 orders and settlements under ss. 165.25 (6), 321.42, 775.04, and 895.46 that are not
4 otherwise reimbursable as liability costs under par. (fm). Release of moneys under
5 this paragraph pursuant to any settlement agreement, whether or not incorporated
6 into an order, is subject to approval of the attorney general.

7 **SECTION 2.** 20.865 (1) (g) of the statutes is amended to read:

8 20.865 (1) (g) *Judgments and legal expenses; program revenues.* From the
9 appropriate program revenue and program revenue — service accounts, a sum
10 sufficient to pay for legal expenses under s. 59.32 (3), for costs under ss. 227.40,
11 227.485, and 814.245 and for the cost of judgments, orders and settlements of
12 actions, appeals and complaints under subch. II of ch. 111 or subch. II or III of ch.
13 230, and those judgments, awards, orders and settlements under ss. 165.25 (6),
14 321.42, 775.04, and 895.46 that are not otherwise reimbursable as liability costs
15 under par. (fm). Release of moneys under this paragraph pursuant to any
16 settlement agreement, whether or not incorporated into an order, is subject to
17 approval of the attorney general.

18 **SECTION 3.** 20.865 (1) (q) of the statutes is amended to read:

19 20.865 (1) (q) *Judgments and legal expenses; segregated revenues.* From the
20 appropriate segregated funds, a sum sufficient to pay for legal expenses under s.
21 59.32 (3), for costs under ss. 227.40, 227.485, and 814.245 and for the cost of
22 judgments, orders and settlements of actions, appeals and complaints under subch.
23 II of ch. 111 or subch. II or III of ch. 230, and those judgments, awards, orders and

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1 settlements under ss. 165.25 (6), 321.42, 775.04, and 895.46 that are not otherwise
2 reimbursable as liability costs under par. (fm). Release of moneys under this
3 paragraph pursuant to any settlement agreement, whether or not incorporated into
4 an order, is subject to approval of the attorney general.

5 **SECTION 4.** 227.40 (4) (a) of the statutes is amended to read:

6 227.40 (4) (a) In any proceeding pursuant to this section for judicial review of
7 a rule or guidance document, the court shall declare the rule or guidance document
8 invalid if it finds that it violates constitutional provisions or exceeds the statutory
9 authority of the agency or was promulgated or adopted without compliance with
10 statutory rule-making or adoption procedures and shall award the party asserting
11 the invalidity of the rule or guidance document, notwithstanding s. 814.04 (1),
12 reasonable attorney fees and costs. If the proceeding is a judicial proceeding
13 specified in sub. (2), attorney fees and costs awarded under this paragraph shall be
14 limited to those associated with the challenge to the validity of the rule or guidance
15 document, as the court so determines. If an agency is ordered to pay costs under
16 this paragraph, the costs shall be paid from the applicable appropriation under s.
17 20.865 (1) (a), (g), or (q).

18 **SECTION 5. Initial applicability.**

19 (1) This act first applies to an action for declaratory judgment commenced on
20 the effective date of this subsection.

21 (END)